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Whitridge, Frederick Wallingford

Memorandum with respect to the pending strike...

[New York]

[1916]

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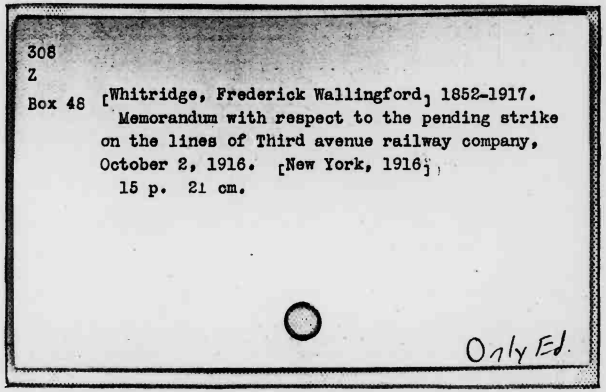
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Office of the President

MEMORANDUM

WITH RESPECT TO THE PENDING STRIKE

ON THE LINES OF

THIRD AVENUE RAILWAY COMPANY

October 2, 1916

MEMORANDUM WITH RESPECT TO THE PENDING STRIKE.

On the 7th of August, 1916, a contract was made between the Company and the striking employees which is contained in four letters which follow and are marked Ia, Ib, Ic and Id (pages 2-6). Several conferences were held in accordance with that contract.

On the 6th of September, 1916, a letter was sent which is marked II (page 6).

The following night the employees voted to strike again, thereupon two letters were written to the Mayor under date of September 9th and September 10th, 1916, which are marked III and IV (pages 7 and 8).

There followed two letters to the employees, one under date of September 15th, 1916, marked V (page 9), and the other under date of September 22nd, 1916, marked VI (page 10).

Under date of September 15, 1916, the Mayor and the Public Service Commission handed down a decision with respect to the second strike which is marked VII (page 11).

During my absence the Public Service Commission and the Press were guilty of a number of highly offensive and disreputable comments, and on the 10th of August, 1916, a report was submitted to the Governor by the Public Service Commission, of which I only learned by accident, and in answer to that I wrote the Governor a letter which is marked VIII (page 12), to which no rejoinder has been made by the Commission.

New York, October 2, 1916.

F. W. WHITRIDGE,
President.

I(a).

THE ASSOCIATION OF THE BAR OF
THE CITY OF NEW YORK.
42 WEST 44TH STREET.

AUGUST 7th, 1916.

ALFRED A. COOK, Esq.
Counsel, Third Avenue Railroad System,
111 Broadway, New York City.

MY DEAR MR. COOK:

I am authorized and directed by his Honor, the Mayor, and the Chairman of the Public Service Commission, with the approval of the leaders of the men now on strike, to submit to you a copy of the proposals approved yesterday of Mr. Shonts, and which he has agreed to submit for ratification to the Board of Directors of his Company today, and which Messrs. Mahon, Fitzgerald, Frayne and Fridiger have likewise approved and agreed to submit for ratification today. I am also authorized to inform you that the strike on the Third Avenue System can be settled on the same basis and the men return to work tomorrow. For this reason, the terms of the settlement of the New York City Railways situation are put in your hands for *confidential* use by you and the Board of Directors of your Company. (They are not, of course, to be released to anyone else.) In presenting the recommendations of the Public Service Commission to your board for action, you will, we are sure, be glad to have these proposals before them, in order to secure immediate authority, if the Board approves, to negotiate a similar settlement.

It is perhaps needless to say that if either Mr. Straus, the Mayor, or myself can aid you in any way in clarifying the matter, before your Board, we are at your service—though my confidence in your ability to do this unaided goes without saying.

Cordially yours,
(Signed) JULIUS HENRY COHEN.

I(b).

HIS HONOR, JOHN PURROY MITCHEL,
Mayor of New York;

HON. OSCAR S. STRAUS,
Chairman of the Public Service Commission of the 1st District of New York.

DEAR SIRS:

I have carefully considered the suggestions that you have made to me, looking to a settlement of the strike on the New York Railways Company's lines, and I herewith submit to you, in line with the suggestions that you have made, the following propositions, which I will recommend to my Board of Directors for ratification. If ratified by my board, I agree that they constitute an undertaking and agreement on the part of my company to settle the strike upon the basis therein set forth:—

1. The employees have the legal and moral right to organize, and the company pledges that they will not interfere with the employees in their exercising of these rights to organize, either by intimidation, coercion or discharge, nor shall employees undertake to interfere with other employees in their exercising of their rights to decline to organize, either by intimidation or coercion.

[It was later agreed that the language in paragraph 1, as follows:—

"Nor shall employees undertake to interfere with other employees in their exercising of their rights to decline to organize, either by intimidation or coercion,"

should be held to mean in addition that this applies as well to members of the union, whether they be employees of the New York Railways Company or not.]

2. The company will receive and treat with a committee of the employees upon any and all questions that may arise between them. This committee to select such spokesmen or advisers as they may choose to represent them, without any objection on the part of the company, and the company will in no way interfere with the selection of the committees of employees, it being understood that if the committee shall select to represent it the officers or other representatives of any particular organization their appearance on behalf of the committee shall not be deemed to

be a recognition on the part of the company of the organizations of which they are the officers or representatives.

3. That the question of wages and working conditions between the employees and the company shall be taken up by and through a committee of the employees with the officials of the company on a date to be agreed upon between them, such date not to be later than the 20th day of August, 1916.

The committee and the company in conference shall attempt to reach a satisfactory settlement upon all questions of wages and working conditions, and upon such points as they may fail to reach an agreement they shall submit to a board of arbitrators—the board of arbitrators to be composed of three disinterested persons, one to be selected by the officials of the company, one to be selected by the committee representing the employees, and these two arbitrators to select the third.

> [The third paragraph prescribing the method of selecting a board of arbitrators, was later amplified by the following provisions:—
>
> In case the arbitrator selected by the officials of the company and the arbitrator selected by the committee representing the employees shall fail within ten days to select the third arbitrator, then such third arbitrator shall be selected by Hon. Oscar S. Straus.]

Both sides to be given full opportunity to present all evidence and argument in connection with their points submitted to arbitration, and the award of the majority of the arbitrators, in writing, shall be final and binding.

It is also agreed that all disputes that may arise between the company and the employees in the future, on which they cannot mutually agree, shall be submitted to arbitration as herein provided.

4. In the interest of public safety and public service, the company wants it clearly understood that the direction and control of employees in all matters looking to efficiency in the service remains with the company and is not to be the subject of conference or arbitration, but if a dispute should arise as to whether a particular case falls within the above class that question shall be subject to conference and arbitration as above provided for.

5. If the above is agreed to and accepted, it is further agreed that the employees shall declare off the strike and return to work immediately in the positions they occupied prior to the time of going on strike, without prejudice.

This agreement to be underwritten by His Honor Mayor Mitchel and by the Hon. Oscar S. Straus, Chairman of the Public Service Commission for the First District.

T. P. Shonts,
President,
New York Railways Co.

New York, August 6, 1916.

I(c).

August 6, 1916.

To
The Honorable John Purroy Mitchel,
Mayor of the City of New York,
and
The Honorable Oscar S. Straus,
Chairman of the Public Service
Commission for the First District.

Sirs:

We have read the communication addressed to you by Mr. Theodore P. Shonts, as President of the New York Railways Company, setting forth the proposals of settlement of the existing strike, and agreeing to submit such proposals to his board of directors for ratification, and further agreeing that if ratified such proposals shall constitute an undertaking and agreement on the part of the company for the settlement of the strike.

The terms and conditions of settlement set forth in the letter of Mr. Shonts embody certain changes in the terms and conditions agreed to by us in our letter addressed to you this morning. At your request, we hereby accept these changes and agree to recommend them to our people for acceptance.

(Signed) W. D. Mahon,
Wm. B. Fitzgerald,
Hugh Frayne,
Louis Fridiger, Attorney.

I(d)

HON. OSCAR S. STRAUS,
Chairman, Public Service Commission,
for the First District.

DEAR SIR:—

In behalf of the Third Avenue Railway System, the proposal made on your behalf through Julius Henry Cohen, Esq., your special counsel, this day, is accepted.

AUGUST 7, 1916.

(Signed) THIRD AVENUE RAILWAY SYSTEM,
By EDWARD A. MAHER,
Vice-President and General Manager.

II.

SEPTEMBER 6th, 1916.

MESSRS. W. B. FITZGERALD
and P. J. O'BRIEN,
Hotel Continental,
New York City.

SIRS:—

On the 7th of last month, Mr. Shonts made an agreement in respect to ending the strike on the street car lines under his jurisdiction, which he has underwritten by the Mayor and the Chairman of the Public Service Commission. I do not know what that means, but on the same date a similar agreement was made with this Company. I told you at our first meeting that I could not meet your demands for extra pay without very considerable abatement, but I thought everything else might be settled and we have been proceeding towards such a settlement.

Yesterday, however, I saw in two newspapers that one or both of you were quoted as having said that in certain contingencies you would tie up all street car traffic from Yonkers to Coney Island. That is a pretty serious step. I think I have a right to ask you whether you are prepared to disavow these statements or whether you are contemplating thus abrogating your contract with this Company, or are prepared to proceed under it without further delay.

Yours very truly,

F. W. WHITRIDGE,
President.

III.

SEPTEMBER 9th, 1916.

HONORABLE J. PURROY MITCHEL,
Mayor of the City of New York,
City Hall, N. Y. City.

MY DEAR SIR:—

You are, I believe, one of the "underwriters" of the agreement of August 7th, between this Company and the employees thereof. The officers of the Company have received from the men twenty-six requests for changes of rules and have had many conferences in respect thereto. In the beginning of these conferences the men were told what we could do about increasing their wages and what we could not do, and after the last conference, at which time the enclosed letter was handed to Mr. O'Brien, we understood that we should receive within forty-eight hours from Wednesday last, a statement from the men of what they were prepared to do. I have, however, heard nothing from them. We have faithfully performed the contract so far as it is possible and we are ready to go ahead with the arbitration with the least possible delay.

I have asked the Honorable Lindley M. Garrison, of New Jersey, to act as our arbitrator, and he has consented so to do. I ask you to be good enough as one of the "underwriters" to this contract to have the men nominate their arbitrator forthwith and also to fix some date within the next few days when if the men shall not have named their arbitrator you think I shall be justified in considering that the men wish to abrogate that contract by calling out every car from "Getty Square to Coney Island", or in some other way.

I am sending a copy of this letter to Fitzgerald and his associates, and I shall be very much obliged if you can do anything to bring this business to a head, about which at the moment the world is being flooded with mere talk.

Yours very truly,

(Signed) F. W. WHITRIDGE,
President.

Enclosure.

IV.

SEPTEMBER 10, 1916.

HON. JOHN PURROY MITCHEL,
Mayor, City of New York,
City Hall, New York City.

DEAR SIR:

I see by the press that, you as one of the underwriters of the contract of August 7th, which you so kindly volunteered to urge upon the traction companies upon that date, have faithfully endeavored to induce the Third Avenue employees to keep their engagements. They have not suggested that there is anything but the most scrupulous good faith on our part; and yet, without any reason or excuse whatever—except that Mr. Fitzgerald says he recognizes the hand of Mr. Shonts in my letters—they elected to strike last night. That is obviously a breach of their agreement, and they have apparently spoken and behaved, not as parties to a contract, but as members of a secret society, bound to obey the orders of a master. This being the situation, I accept the mens' repudiation of the contract of August 7th; consider that it has been abrogated; and shall treat it henceforth as non-existent.

In order to avoid the possibility of future misunderstanding, I beg to say that with the protection now being furnished by the Police Commissioner we expect to resume the full service within a comparatively short time.

For the future, no member of the Amalgamated Society of Street and Electrical Railway Employes of the United States of America will be employed on any of the lines over which I have jurisdiction. I say this with regret because it sounds arbitrary and unfeeling but that society has proved itself in my judgment to be a humbug. Its contract is not good; it does not account for the moneys it collects; it is of no benefit to the men who belong to it, except the few who are officers; it promotes disorder and disloyalty; and it is rapidly becoming a public nuisance. I will have no dealings with it, or anybody representing it, until after such time as it is incorporated under the laws of New York, and

the supervision of its accounts, like those of the railways, is placed under the Public Service Commission. That will at least secure publicity.

Again thanking you for your good offices, and regretting that they have failed, I am,

Yours very truly,

F. W. WHITRIDGE.

V.

SEPTEMBER 15, 1916.

NOTICE.

TO THE EMPLOYEES OF THE THIRD AVENUE RAILWAY SYSTEM:—

Enclosed, herewith, you will find a book of rules supplementing and amending our present book of rules.

These new rules are the result of a number of conferences that have been held with representatives of the employees of all the divisions of the Third Avenue Railway System since August 7th, 1916. Most of these rules were approved at the last conference held on Wednesday, September 6th, 1916. It is my opinion that the result of these rules will be to materially improve conditions under which our employees work.

It has been my constant purpose to do everything in my power to further in every way the interests of our employees. While I have not, up to the present, been able to do all that I hope to do, I have nevertheless been constantly working with that object in view.

I have always said that the surplus earnings of the railway should be devoted mainly to the payment of additional wages, and I have acted upon that theory while I have been here. More I cannot do and I suppose you will agree that a man cannot pay more wages than there is money left to pay them out of. At the time of my conference with representatives of the employees of the different divisions in July, I told you that the limit of wage increase had pretty nearly been reached. At a subsequent conference held about ten days ago, I reiterated this statement

and pointed out that the surplus last year, applicable to the payment of wages, was not quite $300,000.; that the increase in wages given in January and July of this year consumed about $250,000. of this $300,000., and I said that I might possibly squeeze out another $50,000. I still adhere to that statement, and the increase in wages provided in the enclosed book of rules will amount to about $50,000. per year. More than this I cannot do. You are now on strike. I ask you to return to your work. Many of you left, not because you wanted to, but because you were fooled, and in some cases, bullied.

Any of you who are disposed to resume your relations with this Company on the conditions stated, will please send your names to the Superintendent in charge, and I guarantee you shall be protected in every possible way.

F. W. WHITRIDGE,
President.

Enclosure.

VI.

TO EMPLOYEES OF THE THIRD AVENUE RAILWAY SYSTEM:

On Friday last, although I had not been informed why you broke your contract with the Company in respect to arbitration or for what purpose you are now striking, I sent you an additional book of rules together with a circular inviting you to return to your work.

In order to avoid any misunderstanding with respect to that circular, I now give you notice that any of you who desire to return to work and thereby retain your places and seniority rights, must report to your Superintendents on or before Wednesday, September 27th, 1916.

After that date, all former employees who refuse to report, and who later may be permitted to return to work, will be accepted only as new men.

F. W. WHITRIDGE, President.

NEW YORK, September 22, 1916.

VII.

SEPTEMBER 15, 1916.

STATE OF NEW YORK.

IN THE MATTER OF THE Investigation by the Public Service Commission for the First District under Sections 45 and 48 of the Public Service Commissions Law into the general condition of each and every common carrier within the First District, and as to the manner of operation and the adequacy and safety of service of such common carrier.	CASE NO. 2126.

BY THE MAYOR OF THE CITY OF NEW YORK AND PUBLIC SERVICE COMMISSION FOR THE FIRST DISTRICT:

The situation created by the signing of the compact of August 7th, covering the Third Avenue Railroad System, is wholly separate and distinct from the Interborough and New York Railways situation. The conferences between the committees of the Third Avenue men and Mr. Maher and Mr. Whitridge show clearly that the parties were able to agree upon various points in the proposed "working agreement", and also agreed to arbitrate certain differences. Both sides sought to avoid arbitration if it could be done, but failing to agree they followed the procedure outlined in the compact of August 7th. On September 7th, Mr. Fitzgerald testified that these conferences were proceeding satisfactorily and in good spirit. There is no evidence of any conduct on the part of the company indicative of bad faith or of intention to violate the compact of August 7th, nor up to September 7th do we find any evidence of the intention to violate on the part of the men. We do find evidence of suspicion on the part of the men dating from Mr. Whitridge's return, but this could not justify a clear violation of the contract of August 7th. The men went on strike on September 9th in spite of the fact that the Mayor

and Chairman Straus told them in conference earlier that evening that such an action would constitute a breach of their contract. They took this action without justification, and in violation of their compact.

The strike should be called off at once and the agreement of August 7th should be lived up to in letter and spirit.

VIII.

SEPTEMBER 1st, 1916.

HONORABLE CHARLES S. WHITMAN,
Executive Mansion, Albany, N. Y.

SIR:—

I was yesterday, August 31st, shown a copy of a letter addressed to you by the Hon. Oscar S. Straus, dated August 10th, giving an account of the activities of the Public Service Commission during the previous month and saying that that Commission had learned important lessons which they hoped to utilize for imposing further legislation.

This letter is largely taken up with a discussion about me and what I have done and left undone.

The Commission have not hesitated to say that——

> "There can be no question that the strike on the Yonkers and Westchester lines and the events which followed in the train of this strike, including the strike on the other branches of the Third Avenue Railroad and the threatened difficulties with the lines of other companies throughout the City, came about as the immediate and logical result of the attitude of Frederick W. Whitridge, President of the Third Avenue Railroad, and the actions he took in the matter prove conclusively that he either intentionally violated the agreement he had made with the men to arbitrate and which he was in honor bound to keep,

> or that he was so negligent in his duties to his stockholders, his employees and the public, as to forget entirely this important agreement."

The notion that I had the power to loose or bind the forces of destruction and disorder, which have broken out in this country within the last few weeks, even though I had been here, instead of four thousand miles away, is sufficiently absurd on the face of it, but in consequence of the declaration I have quoted, some of the newspapers and some of the public have got it into their heads that I have deliberately violated a contract or agreement to arbitrate all the differences with my employees. That is an odious charge. I resent it and it is not true. I say to you that I have never made any such agreement, that no such agreement now is or ever was in existence, and nobody, so far as I know, ever pretended that any such agreement did in fact exist down to the time of this declaration of the Public Service Commission. In the absence of any formal agreement, which the Commission did not dare, even in my absence, to allege, they produced a stenographer's report of a conference which I had with Mr. B. S. Stevens, Chairman of the Public Service Commission of the Second District in 1913, and undertook to spell a contract out of that report which had laid under the dust for nearly four years without having been heard from. The conference was held for the purpose of inducing the Yonkers men, who had been on strike, to return to work and for no other purpose. That object was accomplished largely through the tact of Mr. Stevens, and to assist him I agreed to arbitrate certain things under certain conditions, if it became necessary. It did not become necessary because the men had no grievances which they wished to arbitrate. What I said about arbitration at that time related to the settlement of the Yonkers strike in 1913, which we were then discussing, and did not relate to anything else or to anything which had occurred or which might occur in 1914, 1915, or 1916, and nobody ever pretended it did.

After the conference was over, copies of this stenographer's report were sent to the men. It was not sent to me. I did not initial it and to this day I have never seen it, but a day or two

after the meeting, I saw a newspaper report, in consequence of which I telegraphed to Mr. Stevens as follows:

> "The *Times* and other papers this morning contain what purports to be a document signed by you and given to the men but of which I have not received a copy giving the gist of your conference yesterday. The last seven lines of that statement beginning with the words 'and after some further colloquy' are erroneous and contain a further expansion of what I said, to which I do not assent."

Mr. Stevens replied on January 17th, as follows:

> "I received yesterday afternoon, the 16th inst., your telegram with reference to the statement signed by me appearing in the *Times* and note that you do not assent to the last 7 lines of such statement beginning with the words 'and after some further colloquy'.
>
> The statement in question was prepared by me a short time after you left and was submitted to the other Commissioners and we all agreed that it contained a correct statement, as we understood the facts. I thereupon gave the original to the representatives of the motormen and copies were delivered to representatives of the press.
>
> It is very much to be regretted that there is not a perfect agreement in recollection as to the conclusions reached. I apprehend, however, that it will occasion no trouble or embarrassment to anyone in the future, since there is but little if any possibility that it will ever become a practical question whether the statement is correct or not.
>
> The results of yesterday's conference are so happy that I have no doubt a spirit of forbearance and concession on all sides, which will undoubtedly be manifest in the future, will bring about a satisfactory settlement of all matters which are in controversy.
>
> I can but believe that you agree with me in thinking that great progress has been made in straightening the affairs of the Yonkers Street Railway."

I concluded the correspondence with the following letter:

"NEW YORK, January 23rd, 1913.

THE HON. FRANK W. STEVENS,
Chairman, Public Service Commission,
Albany, New York.

DEAR MR. STEVENS:

> I have yours of the 17th this morning, postmarked 'Albany, January 17th, 8 P. M.' Where it has been to in the interval I cannot imagine.
>
> Our conference the other day was, from a public point of view, a great success, and I am not only grateful to you for inducing the men to go back to work, but I admire the way in which you did it. I do not think that my difference of recollection with you and the rest of your Commission is likely to be a serious matter. There has been no difference between me and the men; so far as I know, the only difference is between me and the union, which is quite a different proposition. I have now got the facts to enable me to conclude that that union is a foolish, hopelessly corrupt and cowardly organization, and so long as it exists and the Yonkers ordinance is in full force and effect, there is still a great deal to be done in straightening out the affairs of the Yonkers Railroad, but so far as I am concerned, I am quite ready to trust to remediable influences of time. I cannot think that 300 men would allow their money to be stolen and themselves to be fooled up to the hilt indefinitely."

The endeavor to spell a permanent agreement for arbitration out of these stenographer's minutes upon this state of facts, I do not care to characterize, although the Commission's remark that "we have already developed the fact" throws some light upon their mental processes. Still less do I wish to enlarge upon the manner in which the stenographer's minutes were used at recent hearings.

I understand from Mr. Cook that his complaint of the procedure of the Commission was made to it directly, and Mr. Maher, whose testimony was not completed, informs me that his position has not been correctly or fairly represented.

So much for the allegations that I have either intentionally violated the agreement I was in honor bound to keep, or was so negligent in my duties that I had entirely forgotten it.

I must apologize for intruding these matters, which appear so largely personal, upon your attention, but considering the character of Mr. Straus's attack, I feel that I am bound in the public interest to make this reply.

I am, with great respect,

Yours sincerely,

F. W. WHITRIDGE.

MSH 21081

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